

Illinois Board of Higher Education
1 N. Old State Capitol Plaza
Suite 333
Springfield, IL 62701

May 22, 2018

Dear Members of the Illinois Board of Higher Education:

The undersigned organizations represent the interests of students and taxpayers in Illinois, California, and nationally. These organizations have come together to raise several questions regarding the purchase agreement between Cogswell Education, LLC (Cogswell) and Adtalem, under which all DeVry University and the Keller Graduate School of Management programs (DeVry) are operated, as well as concerns related to the subsequent oversight of these schools. We understand that this proposed sale is scheduled to be discussed and voted on at the upcoming June 5 Board Meeting, and we wish to raise several questions for your consideration prior to that meeting.

I. Who Will Have Decision-Making Authority Over the Operations of DeVry?

Adtalem's announcement regarding the sale provides a simple description of the purchaser: "Cogswell Education is the owner of Cogswell College, the second oldest operating college in California, and a regionally accredited institution offering bachelor's degrees as well as certificate programs."¹ According to Bloomberg's company profile for Cogswell Education, LLC, the street address, website, and phone number for the company are the same as for the college.² We can find no public document that makes a meaningful distinction between Cogswell Education and the college it owns, nor anything that suggests Cogswell Education has educational expertise beyond owning Cogswell College.

Calls to Cogswell inquiring about the purchase of DeVry are directed to Palm Ventures, a private equity firm based in Connecticut. Brad Palmer, the signatory of the purchase agreement on behalf of Cogswell Education, LLC, identified as a "manager,"³ is also the founder and Chairman of Palm Ventures.⁴ While the Palm Ventures website listed Cogswell College as an investment as recently as 2015, the reference was removed from the site before the purchase was announced.⁵

¹ Adtalem Global Education. (December 4, 2017). Adtalem Global Education Signs Agreement To Transfer Ownership of DeVry University [Press release]. Available at <http://investors.adtalem.com/file/Index?KeyFile=391332539>.

² Bloomberg. Cogswell Education, LLC [Company profile]. Available at <https://www.bloomberg.com/profiles/companies/1560728D:US-cogswell-education-llc>.

³ U.S. Securities and Exchange Commission. (December 4, 2017). Stock Purchase Agreement by and between Adtalem Global Education Inc., and Cogswell Education, LLC. Available at https://www.sec.gov/Archives/edgar/data/730464/000115752317003181/a51724790ex2_1.htm.

⁴ Palm Ventures. Our Team [Personnel profiles]. Available at <http://www.palmventures.com/team/>.

⁵ David Halperin, *Republic Report*. (March 19, 2018). The Mysterious Deal to Take DeVry University Private. Available at <https://www.republicreport.org/2018/mysterious-deal-take-DeVry-university-private/>.

Another reason for caution is Palm Ventures' past association with the owners and operators of the troubled Corinthian Colleges chain. In 2007, Palm Ventures purchased Heald College anonymously,⁶ and quickly removed the school's management team.⁷ It installed as President a man who served as a Corinthian Colleges executive while that company allegedly engaged in false advertising and unlawful business practices,⁸ for which it later settled with the California Attorney General.⁹ In 2009, it sold Heald to Corinthian Colleges, after which point the California Attorney General, in collaboration with the U.S. Department of Education, "established that Corinthian misrepresented job placement rates for *a majority of programs* at its Heald College campuses between 2010 and 2014" (emphasis added).¹⁰ Ultimately, in 2014 the Department required Corinthian Colleges to sell or wind down all campuses,¹¹ with Heald College campuses in particular shutting their doors abruptly in April 2015.¹²

The lack of clarity about the possible role of Palm Ventures in operating the DeVry programs, who is in charge, and that entity's intentions is of grave concern, and at odds with student and taxpayer interests. These concerns are heightened further by Palm Ventures' history with Heald Colleges, the sudden closure and misrepresentations of which irreparably harmed tens of thousands of borrowers, at substantial expense to taxpayers. While the remainder of this letter presumes that decision-making authority over DeVry will reside with Cogswell, as public statements indicate, we urge the IBHE to inquire about the role of Palm Ventures, why links between Palm Ventures and Cogswell have been obscured and omitted from statements about the purchase, and what the purchaser believes its role to be in protecting students and taxpayers from another situation like that of Corinthian and Heald Colleges.

II. Will Cogswell Commit to Continuing Consumer Protections Guaranteed by DeVry?

In November 2017, DeVry Education (now Adtalem), announced the implementation of its Student Commitments,¹³ which surpass the minimum standards which institutions are held to in

⁶ Capstone Partners. (September 10, 2007). Capstone Partners Advises Heald College on Acquisition by Investor Group [Press release]. Internet Archive copy available at <https://web.archive.org/web/20150813214103/http://capstonellc.com/news/capstone-partners-advises-heald-college-acquisition-investor-group>.

⁷ Mandi Woodruff, *Yahoo Finance*. (July 16, 2015). Who killed Heald College? Available at <https://finance.yahoo.com/news/who-killed-heald-college-corinthian-204050652.html>.

⁸ LinkedIn. Nolan Miura [Personal profile]. Available at <https://www.linkedin.com/in/nolan-miura-a82b892/>.

⁹ The People of the State of California v. Corinthian Schools Inc. (July 24, 2007). Case No. BC374999. Available at https://oag.ca.gov/system/files/attachments/press_releases/2007-07-31_Complaint_for_Final_Judgment_072407.pdf.

¹⁰ U.S. Department of Education. (June 8, 2015). Debt Relief for Corinthian Colleges Students [Blog post]. Available at <https://blog.ed.gov/2015/06/debt-relief-for-corinthian-colleges-students/>.

¹¹ U.S. Department of Education. (June 23, 2014). U.S. Department of Education Signs Plan to Protect Students by Avoiding Immediate Closure of Corinthian Colleges [Blog post]. Available at <https://www.ed.gov/news/press-releases/us-department-education-signs-plan-protect-students-avoiding-immediate-closure-corinthian-colleges>.

¹² Aliyah Mohammed, *The Mercury News*. (April 29, 2015). Heald Students, Instructors Dazed from News of College's Abrupt Closure. Available at <https://www.mercurynews.com/2015/04/29/heald-students-instructors-dazed-from-news-of-colleges-abrupt-closure/>.

¹³ Adtalem Global Education. (November 1, 2017). Adtalem Global Education Completes Implementation of New Student Commitments [Press release]. Available at <https://www.adtalem.com/newsroom/press-releases/Adtalem-Global-Education-Completes-Implementation-of-New-Student-Commitments.html>.

existing higher education policies. In these commitments, DeVry promised *improved student interactions*, by prohibiting the use of mandatory arbitration clauses in student contracts, allowing students and former students to go to court if a dispute with the school were to arise. They also pledged to practice *responsible recruitment and enrollment*, by creating transparency regarding their expenditures for marketing, instruction, and student support, disclosing recruiting expenditures and benchmarking them against national standards, and monitoring and evaluating admissions professionals' performance and compensation regularly. Finally, they committed to *responsible participation in the federal loan process*, voluntarily lowering their institutional limits on federal funding, deriving *no more* than 85 percent of their proceeds from federal funds, including VA and DoD funding. Adtalem, on behalf of DeVry, committed to review and update their Student Commitments annually, and hired an independent third party to measure their results and prepare a public report in 2017.

Unfortunately, the purchase agreement between Adtalem and Cogswell references only 34 C.F.R. §§ 668.14 and 668.28 - the 90/10 regulations - as a matter of regulatory compliance, and does not commit to continued adherence to the higher standards DeVry recently adopted.¹⁴ Further, the agreement does not stipulate that Cogswell will continue the prohibition of mandatory arbitration clauses in student contracts, nor that they will continue the new recruitment and enrollment standards to which DeVry committed.

Both current and future students will understandably assume that DeVry will continue to uphold each of their prior commitments, and so ensuring that Cogswell explicitly intends to maintain these protections is essential. We urge you to use your authority to ensure that Cogswell honors the Student Commitments, and continues the practice of an independent third party audit to ensure that best practices continue to be observed.

III. Does Cogswell Have the Capacity To Manage DeVry Holdings?

As discussed previously, Cogswell's only known experience is owning Cogswell College, a school with a student body of approximately 630 students,¹⁵ almost exclusively located at a single brick and mortar location in San Jose, California. Yet the company appears poised to assume control over a massive number of students enrolled mostly online, dozens of on-the-ground locations, and a vast array of educational offerings they do not currently provide.

Further, it appears that Cogswell intends to continue to manage DeVry as an Illinois institution, despite the fact that Cogswell's primary place of business is in California and its possible owner, Palm Ventures, is located in Connecticut. While we question the appropriateness of keeping DeVry's main campus in Illinois (as discussed later), we also believe that managing DeVry from afar, and under an unfamiliar regulatory framework, will pose additional challenges into which IBHE should inquire. Given that the governance and oversight of Cogswell College is currently

¹⁴ U.S. Securities and Exchange Commission. (December 4, 2017). Stock Purchase Agreement by and between Adtalem Global Education Inc., and Cogswell Education, LLC. Available at https://www.sec.gov/Archives/edgar/data/730464/000115752317003181/a51724790ex2_1.htm.

¹⁵ U.S. Department of Education. Cogswell College [College scorecard]. Available at <https://collegescorecard.ed.gov/school/?112394-Cogswell-College>.

overseen by the Western Association of Schools and Colleges (WASC) and the California Bureau for Private Postsecondary Education (BPPE), Cogswell Education, LLC would seem to have no experience in operating in compliance with Illinois law or under Illinois Board of Higher Education (IBHE) oversight.

With approximately 33,000 students across all campuses, acquiring DeVry would expand the size of the student body Cogswell is responsible for educating by a factor of 52. Such exponential growth requires intensive oversight and guidance even under the best circumstances, and we believe the Cogswell/DeVry purchase will require significant administrative scrutiny from approving agencies.

Additionally, while an overwhelming majority of Cogswell's current students attend classes at the San Jose campus full-time, a majority of DeVry students are enrolled online,¹⁶ and in a part-time capacity.¹⁷ The resources necessary to support the DeVry students will be dramatically different than those needed at Cogswell College,¹⁸ and there is no indication that Cogswell Education, LLC is prepared or equipped to operate a school that differs so dramatically from the one it already operates.

We urge you to investigate the extent to which Cogswell is capable of assuming control of the DeVry holdings, supporting the much larger and more diverse DeVry student body, accommodating the needs of a large influx of online students, handling the increase in the number of physical locations they will be required to manage, and whether they have the requisite experience to adequately manage those holdings from out of state.

IV. How Will Cogswell Respond to Escalating Borrower Defense Claims from DeVry Students?

Federal student loan borrowers can apply to have their loans discharged if, according to the U.S. Department of Education, the college for which they took out the loan "misled" them, "or engaged in other misconduct in violation of certain state laws."¹⁹ In response to a FOIA request from The Century Foundation, the U.S. Department of Education shared that the number of Borrower Defense claims against DeVry has escalated sharply, from less than 1,800 in August 2017 to more than 8,000 in March 2018.

¹⁶ Eric Bettinger and Susanna Loeb, *Brookings*. (June 9, 2017). Promises and Pitfalls of Online Education. Available at <https://www.brookings.edu/research/promises-and-pitfalls-of-online-education/>.

¹⁷ 66 percent of students attend DeVry University Illinois part-time, compared to the 16 percent of Cogswell students, College Scorecard, U.S. Department of Education. See U.S. Department of Education. College Scorecard. Available at <https://collegescorecard.ed.gov>.

¹⁸ Marcella Bombardieri, *Center for American Progress*. (September 6, 2017). Hidden in Plain Sight Understanding Part-Time College Students in America. Available at <https://www.americanprogress.org/issues/education-postsecondary/reports/2017/09/06/438341/hidden-plain-sight/>.

¹⁹ Federal Student Aid. Borrower Defense to Repayment. Available at <https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/borrower-defense>.

Cogswell Institutions to be Acquired	Number of Claims filed March 1, 2016 (SM Report 3)	Number of Claims filed August 15, 2017 (College Complaints Unmasked)	Number of Claims filed March 14, 2018 (TCF FOIA Updated)
DeVry University	78	1,522	7,860
Keller Graduate School of Management	-	250	371
Total	78	1,772	8,231

These extremely high numbers and their rapid growth rate raise very serious questions regarding the scope of problems within DeVry institutions. Even ITT Technical Institutes - which was a larger school than DeVry and found to have used aggressive recruiting practices,²⁰ saddled students with high debt levels,²¹ and produced poor employment outcomes²² - had fewer borrower defense claims one year after it precipitously shut down than the number currently outstanding against DeVry.²³ And in ITT Tech's case, the high number of borrower defense claims can be attributed to organized outreach from the US Department of Education, state Attorneys General, and the legal aid community to help notify students of their rights after the school suddenly closed. Only the now-defunct Corinthian Colleges has more claims than DeVry's current total.

The purchase agreement allows for the termination of the deal prior to closing based on the number of Borrower Defense claims against DeVry. According to the provision, if students have filed more than 2,250 borrower defense claims against their DeVry institution, Cogswell can cancel the transaction. In light of this latest information, we urge the IBHE to determine whether Cogswell intends on following through with the acquisition of DeVry institutions now that the termination trigger has been met and drastically exceeded.

Further, if a deal is finalized and approved, responsibility for correcting the pervasive issues behind these borrower defense claims will fall to the much smaller and less experienced Cogswell. We urge you to explore what plans Cogswell has in place to work with students who were misled, and what steps Cogswell will take to ensure reduced misrepresentations and wrongdoings going forward.

²⁰ U.S. Securities and Exchange Commission v. ITT Educational Services, Inc. (May 12, 2015). Case No. 15-CV-00758. Available at <https://www.sec.gov/litigation/complaints/2015/comp-pr2015-86.pdf>.

²¹ Legal Services Center of Harvard Law School. Villalba et al. v. ITT. Available at <https://predatorystudentlending.org/cases/itt/>.

²² U.S. Consumer Financial Protection Bureau v. ITT Educational Services. (February 26, 2014). Case No. 1:14-cv-292. Available at http://files.consumerfinance.gov/f/201402_cfpb_complaint_ITT.pdf.

²³ ITT Technical Institutes had 7348 borrower defense claims as of August 19, 2017, according to The Century Foundation's "College Complaints Unmasked," more than 11 months after the school shut down. See Yan Cao and Tariq Habash, *The Century Foundation*. (November 8, 2017). College Complaints Unmasked. Available at <https://tcf.org/content/report/college-complaints-unmasked/>.

V. Is California the Appropriate Forum for Ongoing Cogswell/DeVry Oversight?

Though DeVry has ground campuses in several states, DeVry's *main* campus is the one that enrolls online students nationwide. This campus has long been located in Illinois, where Adtalem's corporate headquarters are based.²⁴ Yet with Adtalem no longer owning nor operating DeVry, and with the vast majority of enrolled students at this campus residing in other states, it is not clear why the main campus designation should remain in Illinois. Further, while DeVry does have dozens of brick and mortar campuses nationwide, the largest concentration of those campuses is in California - not Illinois. In fact, while there are a combined total of 18 DeVry and Keller branded campuses in Illinois, there are a total of 23 campuses in California.²⁵

Cogswell Education's Cogswell College is located in California, accredited by WASC, and overseen by the BPPE. As a result, Cogswell is familiar with these regulatory frameworks. Further, even before they announced their intention to purchase DeVry, WASC had already begun working with Cogswell College to address issues related to accommodating enrollment growth, developing best operating practices, and creating an online pedagogy.²⁶ WASC issued eight specific recommendations that the college is required to respond to, and has already scheduled a Special Visit to follow up on those recommendations. Because WASC has already begun the work of evaluating and advising Cogswell College on necessary improvements required to be capable of supporting more students and improving their educational offerings, it is most efficient for WASC to continue to assist Cogswell Education with these same issues as they relate to DeVry holdings. We believe that, at a minimum, there must be coordination between WASC and HLC prior to the approval of the change in ownership, and require approval by *both* accrediting agencies.

The Supreme Court established the "nerve center" test in Hertz Corp. v. Friend (2010), holding that a corporation's principal place of business is located in "the place where a corporation's officers direct, control, and coordinate the corporation's activities," and "in practice it should normally be the place where the corporation maintains its headquarters - provided that the headquarters is the actual center of direction, control, and coordination, i.e., the 'nerve center,' and not simply an office where the corporation holds its board meetings (for example, attended by directors and officers who have traveled there for the occasion)."²⁷ Although Adtalem is incorporated in Illinois, California-based Cogswell Education will become the owner and operator of all of DeVry's holdings. With the decision makers at Cogswell Education in California, it is most appropriate for DeVry to also be regulated by the BPPE following the sale. We urge you to work together and formally require Cogswell to gain approval from both state authorizers in order to close on the sale, and to then transfer ongoing oversight to the BPPE following the sale.

²⁴ Bloomberg. Adtalem Global Education Inc. [Company profile]. Available at <https://www.bloomberg.com/profiles/companies/ATGE:US-adtalem-global-education-inc>.

²⁵ DeVry University. Locations [Search page]. Available at <https://www.Devry.edu/universities/search-locations.html>; Keller Graduate School of Management. All Campus Locations [Search page]. Available at <https://www.keller.edu/graduate-schools/graduate-schools-by-program.html>.

²⁶ WASC Senior College and University Commission letter to Cogswell Polytechnical College. (March 9, 2018). Available at <https://wascsenior.box.com/shared/static/41xzkrnlvwr4jvovk2qf37jrwhu79nl.pdf>.

²⁷ 559 U.S. 77 (2010), pp. 13-19.

Thank you for your attention to this issue. Please contact Angela Perry of The Institute for College Access and Success at (510) 318-7902 or aperry@ticas.org with questions or for additional information.

Sincerely,

Americans for Financial Reform Education Fund
Chicago Student Action
Consumer Action
East Bay Community Law Center
Housing and Economic Rights Advocates
Higher Ed, Not Debt
National Consumer Law Center, on behalf of its low-income clients
Public Law Center
Sargent Shriver National Center on Poverty Law
Student Action (National)
The Institute for College Access and Success
The University of San Diego Center for Public Interest Law
The University of San Diego Children's Advocacy Institute
Veterans Education Success
Woodstock Institute
Young Invincibles

CC: Barbara Gellman-Danley, President, Higher Learning Commission
Jamienne Studley, President, WASC Senior College and University Commission
Michael Marion, Chief, Bureau for Private Postsecondary